



Layoff and Separation

Historically, by law, the sole basis for determining who would be laid off during a layoff has been seniority. The changes brought by civil service reform provide additional options for both organizations and employees during a layoff or other separation. While longevity and commitment to the organization should be valued, organizations cannot afford to lose strong performers. Many of the new options consider the importance of having the right person in the right job at the right time, ensuring both organizational and employee success. For details, see [Chapter 357-46 WAC Layoff and Separation](#).

Note: The rules described in this document apply to nonrepresented employees. For provisions covering employees in bargaining units, please see the appropriate contract at <http://www.ofm.wa.gov/labor/>.

What are reasons for layoff?

They include, but are not limited to:

- lack of funds
- lack of work
- organizational changes

These were expanded to allow for unforeseen and changing organizational needs.

How do layoff decisions affect individual employees?

Layoff decisions are still determined by management. The effect on individual positions is based on an employment retention rating which includes seniority. Other legitimate business factors may also be used such as performance or the skills needed by key personnel to fulfill the business needs of the organization. *(Performance may only be factored into an employment retention rating after the organization receives performance management confirmation from the Department of Personnel.)*

What options are available for employees when they are laid off?

Options within the layoff unit include those for which the employee satisfies competency and other position specific requirements. The employer looks for options in the following order, to determine which option the employee will be offered:

- Comparable positions in same class.
- Comparable positions in lower classes in same class series/occupational category even if permanent status has not been held in the lower class.
- Positions held by nonpermanent employees in same or lower salary range from which the employee is being laid off.
- Less-than-comparable, vacant positions in descending salary order.

Employees may also be eligible for:

- Internal layoff list
- Statewide layoff list
- Transition pool

Layoff candidates remain on both the internal and statewide layoff lists for two years and layoff candidates who are removed from a layoff list may request a director's review if the department is responsible for maintaining the layoff list.

How is consideration given to layoff candidates for rehiring?

All internal layoff candidates who fulfill position-specific requirements are certified to the employing official. Depending on an employer's promotional policy, internal promotional candidates may also be included in this certification. The employing official may appoint an individual from either of these lists.

In the absence of internal layoff candidates, all statewide layoff candidates who fulfill position-specific requirements are certified to the employing official. Depending on an employer's promotional policy, internal promotional candidates may also be included in this certification. The employing official may appoint an individual from either of these lists.

If the number of names certified through these methods results in less than 10, the employer may choose to consider additional eligible candidates. In general government, the certification procedure must provide for consideration of candidates from the transition pool if candidates other than layoff candidates or promotional candidates are certified.

Is a review period required when hired from a layoff list?

When an employee is appointed to a position as a layoff option or from a layoff list, the employing official may require the employee to serve a six month review period. This practice provides both the employer and the employee the opportunity to make sure the position is a good fit.

Transition review periods are not allowed when an employee is being appointed to a comparable position performing the same job duties as the position held prior to layoff.

What happens to an employee's salary if he/she is appointed to a new position with a lower salary as a result of a layoff action?

An employee's salary is retained if it is within the new range. If it is not in the new range, the employing official may set the salary at the maximum of the range or retain the employee's previous base salary depending on their salary determination policy. These options apply to:

- Employees appointed to a lower level position as a layoff option
- Employees that accept a voluntary demotion in lieu of layoff
- Employees that are hired to a lower level position from a layoff list

Are there other reasons besides layoff for which employees may be separated?

Resignation

Employees should provide fifteen (15) calendar day's notice.

Disability separation

An action can be taken to separate an employee from service when the employing official determines that the employee is unable to perform the essential functions of the employee's position or class with or without reasonable accommodation due to mental, sensory, or physical incapacity. Employing officials must provide notice in advance as part of the reasonable accommodation process. A permanent employee separated due to disability may appeal the separation unless it is at the employee's request. Employers may directly reemploy, without certification, employees separated due to disability, as long as the employer's internal layoff list or the statewide layoff list for the class has no eligible candidates.

Separation during probationary period

An appointing authority may separate a probationary employee who has not

completed his/her probationary period by providing one (1) calendar day of written notice.

Unauthorized absence

An employing official may separate a permanent employee who has been absent without authorized leave for a period of three (3) consecutive working days. The employee may petition the appointing authority in writing to consider reinstatement. If the employee is not reinstated, s/he must be notified in writing of the right to appeal.

Nondisciplinary separations

Allows for employing officials to separate employees for nondisciplinary reasons, such as failure to comply with conditions of employment or failure to authorize or pass a background check. Employers must provide fifteen (15) calendar days' written notice to the employee.
